

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2010-0709-02E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Fish and Game Commission		AGENCY FILE NUMBER (if any)	


A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Stewarts Point SMR and Stewarts Point SMCA	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT AMEND 632 REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____	
7. CONTACT PERSON Sherrie Fonbuena	TELEPHONE NUMBER (916) 654-9866
FAX NUMBER (Optional) (916) 653-5040	E-MAIL ADDRESS (Optional) SFonbuena@fgc.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9 July 2010
TYPED NAME AND TITLE OF SIGNATORY Jon K. Fischer, Deputy Executive Director	

For use by Office of Administrative Law (OAL) only

Regulatory Language

Section 632, Title 14, CCR, is amended to read:

...

(11) Stewarts Point State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

38° 40.500' N. lat. 123° 25.370' W. long.;

38° 40.500' N. lat. 123° 25.500' W. long.;

38° 37.500' N. lat. 123° 23.500' W. long.;

38° 37.535' N. lat. 123° 23.027' W. long.

(B) Take of all living marine resources is prohibited except the following may be taken recreationally from shore only: marine aquatic plants other than sea palm, marine invertebrates, finfish [as identified in subsection 632(a)(2)] by hook and line, surf smelt by beach net, and species authorized in Section 28.80 of these regulations by hand-held dip net.

(11)(12) Stewarts Point State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

38° 40.50' N. lat. 123° 25.37' W. long.;

38° 40.50' N. lat. 123° 30.24' W. long.; thence southward along the three nautical mile offshore boundary to

38° 35.60' N. lat. 123° 26.01' W. long.; and

38° 35.60' N. lat. 123° 20.80' W. long., except that Stewarts Point State Marine Conservation Area as described in subsection 632(b)(11)(A) is excluded.

(B) Take of all living marine resources is prohibited.

~~(12)~~(13) Salt Point State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

38° 35.60' N. lat. 123° 20.80' W. long.;

38° 35.60' N. lat. 123° 21.00' W. long.;

38° 33.50' N. lat. 123° 21.00' W. long.; and

38° 33.55' N. lat. 123° 18.91' W. long., except that Gerstle Cove as described in subsection 632(b)(13)(A) 632(b)(14)(A) is excluded.

(B) Take of all living marine resources is prohibited except the recreational take of abalone and finfish [subsection 632(a)(2)].

...

Subsections 632(b)(13) through 632(b)(14) are renumbered 632(b)(14) through 632(b)(15).

...

~~(15)~~(16) Russian River State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the mouth of the Russian River estuary as defined in subsection ~~632(b)(14)(A)~~632(b)(15)(A), and straight lines connecting the following points in the order listed:

38° 27.38' N. lat. 123° 08.58' W. long.;

38° 26.38' N. lat. 123° 08.58' W. long.;

38° 26.38' N. lat. 123° 07.70' W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: Dungeness crab by trap, and surf smelt using hand-held dip net or beach net.

2. Only the following species may be taken commercially: Dungeness crab by trap.

...

Subsections ~~632(b)(16)~~ through ~~632(b)(28)~~ are renumbered ~~632(b)(17)~~ through ~~632(b)(29)~~.

...

~~(29)~~(30) North Farallon Islands Special Closure. Special regulations on boating and access apply to the North Farallon Islands as follows.

(A) A special closure is established at the islets comprising the North Farallon Islands.

(B) Except as permitted by federal law or emergency caused by hazardous weather, or as authorized by subsection ~~632(b)(29)(C)~~632(b)(30)(C), no vessel shall be operated or anchored at any time from the mean high tide line to a distance of 1000 feet seaward of the mean lower low tide line of any shoreline of North Farallon Island, or to a distance of 300 feet seaward of the mean lower low tide line of any shoreline of the remaining three southern islets, including the Island of St. James, in the vicinity of 37° 46.00' N. lat. 123° 06.00' W. long.

(C) No person except department employees or employees of the United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration, or United States Coast Guard, in performing their official duties, or unless permission is granted by the department, shall enter the area defined in subsection ~~632(b)(29)(B)~~632(b)(30)(B).

(D) All vessels shall observe a five (5) nautical mile per hour speed limit within 1,000 feet seaward of the mean lower low tide line of any shoreline of the islets defined in subsection ~~632(b)(29)(B)~~ 632(b)(30)(B).

(E) In an area bounded by the mean high tide line and a distance of one nautical mile seaward of the mean lower low tide line of any of the four islets comprising the North Farallon Islands, the following restrictions apply:

1. All commercial diving vessels operating in the defined area shall have their vessel engine exhaust system terminate either through a muffler for dry exhaust systems, or below the vessel waterline for wet exhaust systems.

2. All commercial diving vessels equipped with an open, deck-mounted air compressor system, while operating in the defined area, shall have their air compressor's engine exhaust system terminate below the vessel waterline.

...

Subsections 632(b)(30) through 632(b)(31) are renumbered 632(b)(31) through 632(b)(32).

...

~~(32)~~(33) Southeast Farallon Island Special Closure. Special regulations on boating and access apply to the Southeast Farallon Island as follows.

(A) A special closure is established at the Southeast Farallon Island.

(B) Except as permitted by federal law or emergency caused by hazardous weather, or as authorized by subsection ~~632(b)(32)(C)~~ 632(b)(33)(C), no vessel shall be operated or anchored at any time from the mean high tide line to a distance of 300 feet seaward of the mean lower low tide line of any shoreline EXCEPT north of a line at 37° 42.26' N. lat., and inside Fisherman's Bay south of 37° 42.26' N. lat. and north of 37° 42.05' N. lat., and at East Landing, between a line extending due east from 37° 41.83' N. lat. 122° 59.98' W. long. and a line extending from 37° 41.72' N. lat. 123° 00.05' W. long. to 37° 41.68' N. lat. 123° 00.07' W. long. This closure exists year round, except for the southeast side of Saddle (Seal) Rock, between a line extending from 37° 41.76' N. lat. 123° 00.16' W. long. to 37° 41.64' N. lat. 123° 00.16' W. long. and a line extending from 37° 41.60' N. lat. 123° 00.26' W. long. to 37° 41.60' N. lat. 123° 00.32' W. long., which is closed only from December 1 through September 14 of each year.

(C) No person except department employees or employees of the United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration, or United States Coast Guard, in performing their official duties, or unless permission is granted by the department, shall enter the area defined in subsection ~~632(b)(32)(B)~~ 632(b)(33)(B).

(D) All vessels shall observe a five (5) nautical mile per hour speed limit 1,000 feet seaward of the mean lower low tide line of any shoreline of the Southeast Farallon Island.

(E) In an area bounded by the mean high tide line and a distance of one nautical mile seaward of the mean lower low tide line of any of the islands and islets comprising the Southeast Farallon Island, the following restrictions apply:

1. All commercial diving vessels operating in the defined area shall have their vessel engine exhaust system terminate either through a muffler for dry exhaust systems, or below the vessel waterline for wet exhaust systems.
2. All commercial diving vessels equipped with an open, deck-mounted air compressor system, while operating in the defined area, shall have their air compressor's engine exhaust system terminate below the vessel waterline.

...

Subsections 632(b)(33) through 632(b)(105) are renumbered Subsections 632(b)(34) through 632(b)(106).

...

~~(106)~~(107) Dana Point State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1200 feet seaward of mean lower low water, and the following points:

33° 27.74' N. lat. 117° 42.95' W. long.;

33° 27.74' N. lat. 117° 43.18' W. long.;
33° 27.47' N. lat. 117° 42.28' W. long.; and
33° 27.63' N. lat. 117° 42.45' W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally below the mean lower low-water mark: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.

2. Only spiny lobster may be taken commercially.

(C) Except as expressly provided in this section, it is unlawful to enter the intertidal zone in the Dana Point State Marine Conservation Area for the purpose of taking or possessing, or to take or possess, any species of fish, plant, or invertebrate, or part thereof; to use or have in possession any contrivance designed to be used for catching fish; to disturb any native plant, fish, wildlife, aquatic organism; or to take or disturb any natural geological feature. This subdivision does not prohibit persons from entering the intertidal zone for the purpose of entertainment, recreation, and education while having a minimum impact on the intertidal environment and the living organisms therein. For this purpose, minimum impact includes foot traffic; general observation of organisms in their environment with immediate replacement of any unattached organisms to their natural location after temporary lifting for examination; and photography. Minimum impact does not include removal of attached organisms from their environment; gathering of fishing bait; littering, collecting rocks and shells; or turning rocks or other acts destructive to the environment.

(D) The department director may appoint a director of the Dana Point State Marine Conservation Area.

(E) The director of the Dana Point State Marine Conservation Area may issue a special collecting permit authorizing any person to enter the conservation area for the purposes of scientific collecting under the conditions of a scientific collector's permit issued by the department.

(F) Notwithstanding subsections ~~632(b)(89)(B) or 632(b)(89)(C)~~ 632(b)(107)(B) or 632(b)(107)(C), the director of the Dana Point State Marine Conservation Area, or any person who has a scientific collector's permit from the department and to whom the director of the Dana Point State Marine Conservation Area has issued a special collecting permit may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department.

(G) This section does not prohibit the entry of state and local law enforcement officers, fire suppression agencies, and employees of the department in the performance of their official duties. This section does not prohibit or restrict navigation in the Dana Point State Marine Conservation Area pursuant to federal law.

...

Subsequent subsections are renumbered beginning with (108).

Note: Authority cited: Sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code. Reference: Sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code.

FISH AND GAME COMMISSION STATEMENT OF FACTS CONSTITUTING NEED FOR EMERGENCY ACTION

Emergency Action to Amend Section 632, Title 14, CCR,
Re: Stewarts Point State Marine Reserve

I. INTRODUCTION

The Marine Life Management Act (MLMA, Stats. 1998, ch. 1052) created a broad programmatic framework for managing fisheries through a variety of conservation measures, including Marine Protected Areas (MPAs). The Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015) established a programmatic framework for designating such MPAs in the form of a statewide network. AB 2800 (Stats. 2000, ch. 385) enacted the Marine Managed Areas Improvement Act (MMAIA), among other things, to standardize the designation of Marine Managed Areas (MMAs), which include MPAs. The overriding goal of these acts is to ensure the conservation, sustainable use, and restoration of California's marine resources. Unlike previous laws, which focused on individual species, the acts focus on maintaining the health of marine ecosystems and biodiversity in order to sustain resources.

The MLPA requires that the Fish and Game Commission ("Commission") adopt a Marine Life Protection Program that, in part, contains an improved marine reserve (now state marine reserve) component [Fish and Game Code (FGC) subsection 2853(c)(1)] and protects the natural diversity of marine life and the structure, function, and integrity of marine ecosystems [FGC subsection 2853(b)(1)]. This protection may help provide sustainable resources as well as enhance functioning ecosystems that provide benefits to both consumptive and non-consumptive user groups. The program may include MPAs with various levels of protection, from no take of any kind to those that allow for specified commercial and recreational activities, provided that these activities are consistent with the objectives of the area and the goals and guidelines of the MLPA.

The planning process to implement the MLPA in the north central coast, defined as state waters between Alder Creek, near Point Arena (Mendocino County) and Pigeon Point (San Mateo County), was conducted pursuant to the processes defined in the Commission's revised draft Master Plan for MPAs. The MLPA North Central Coast Regional Stakeholder Group (NCCRSG) began meeting in May, 2007 to develop alternative MPA proposals for the north central coast region. The NCCRSG met during eight one- to two-day meetings and three work sessions between May 2007 and March 2008 before forwarding three proposals to a Blue Ribbon Task Force (BRTF). The BRTF was appointed by the Secretary for Resources to provide policy guidance and oversight to the process. The BRTF created an Integrated Preferred Alternative proposal (IPA) by selecting, and in some cases slightly modifying, MPAs from each of the three NCCRSG proposals with the intent to meet scientific guidelines and achieve the MLPA goals, while also bridging some of the remaining areas of divergence among the NCCRSG proposals. The BRTF recommended that the Commission select the IPA as the regulatory preferred alternative for the north central coast.

The recent creation of the Stewarts Point SMR created an unforeseen situation. Creation of the Stewarts Point SMR inadvertently prohibited Kashia people from fishing and gathering for subsistence purposes. The issue of Kashia Pomo tribal uses of coastal resources was not considered by the BRTF which proposed the North Central Coast regulation to the Commission.

Immediate action is needed to avoid serious harm to the health and safety and general welfare of the Kashia people. There are approximately 800 Tribal members, about 450 of whom are adults. Approximately 150 adults fish and gather; of those, less than 20 (who live on the Rancheria at Stewarts Point) fish or gather two or three times per week. There are probably 100 members who regularly engage in gathering. Much of the gathering is done by younger tribal members for elders. The Rancheria has 80 percent unemployment, is in a remote location, with a poor access road, and with few opportunities within a long, winding drive. Fishing is a source of food. Gathering sea weed and shellfish is also a source of food. Younger tribal members gather for the elders of the Rancheria who can no longer gather food for themselves. Rancheria residents do not fish or gather for commercial purposes; they do not smoke, can or otherwise store food in bulk. The current prohibition on take of living marine resources in Stewarts Point SMR denies the Kashia people access to food, shrinks appreciably the available sources of food, and by forcing them to go elsewhere, increases the time, cost and risk of gathering food (Stewarts Point is accessible; there are no steep hills, high bluffs, sheer drops, which make access to the resources unsafe.) Access to a primary source of food is a health and safety issue, directly related to the general welfare of the community.

III. Express Finding of Emergency

Pursuant to the authority vested in the Commission by FGC Section 240, and for the reasons set forth above, the Commission expressly finds that the adoption of this regulation is necessary for the immediate preservation of the health and safety and general welfare. The Commission specifically finds that the amendment of this regulation will avoid serious harm to the health and safety and general welfare of the Kashia people by allowing them to take living marine resources for subsistence purposes.

IV. Authority and Reference Citations

Authority: Sections 200, 202, 203.1, 205(c), 219, 220, 240, 1590, 1591, 2860, 2861 and 6850 of the Fish and Game Code, and Sections 36725(a) and 36725(e) of the Public Resources Code.

Reference: Sections 200, 202, 203.1, 205(c), 219, 220, 240, 1580, 1583, 2861, 5521, 6653, 8420(e), and 8500 of the Fish and Game Code, and Sections 36700(e), 36710(e), 36725(a) and 36725(e) of the Public Resources Code.

The proposed SMCA would leave three miles of coastline in SMR status, which meets the minimum science guidelines for coastal protection of nearshore habitats.

C. Policy Statement Overview

The objective of this emergency regulation is to create the Stewarts Point SMCA and to allow specified recreational take of living marine resources within the SMCA.

VII. Specific Agency Statutory Requirements

The Commission has complied with the special statutory requirements governing the adoption of emergency regulations pursuant to FGC Section 240. The Commission held a public hearing on this regulation on June 24, 2010, and the above finding that this regulation is necessary for the immediate preservation of the health and safety and general welfare meets the requirements of Section 240.

VIII. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the emergency regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (b) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (c) Programs Mandated on Local Agencies or School Districts:

None.

- (d) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (e) Effect on Housing Costs:

None.

(15)(16) Russian River State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the mouth of the Russian River estuary as defined in subsection ~~632(b)(14)(A)~~632(b)(15)(A), and straight lines connecting the following points in the order listed:

38° 27.38' N. lat. 123° 08.58' W. long.;

38° 26.38' N. lat. 123° 08.58' W. long.;

38° 26.38' N. lat. 123° 07.70' W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: Dungeness crab by trap, and surf smelt using hand-held dip net or beach net.

2. Only the following species may be taken commercially: Dungeness crab by trap.

...

Subsections 632(b)(16) through 632(b)(28) are renumbered 632(b)(17) through 632(b)(29).

...

(29)(30) North Farallon Islands Special Closure. Special regulations on boating and access apply to the North Farallon Islands as follows.

(A) A special closure is established at the islets comprising the North Farallon Islands.

(B) Except as permitted by federal law or emergency caused by hazardous weather, or as authorized by subsection ~~632(b)(29)(C)~~632(b)(30)(C), no vessel shall be operated or anchored at any time from the mean high tide line to a distance of 1000 feet seaward of the mean lower low tide line of any shoreline of North Farallon Island, or to a distance of 300 feet seaward of the mean lower low tide line of any shoreline of the remaining three southern islets, including the Island of St. James, in the vicinity of 37° 46.00' N. lat. 123° 06.00' W. long.

(C) No person except department employees or employees of the United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration, or United States Coast Guard, in performing their official duties, or unless permission is granted by the department, shall enter the area defined in subsection ~~632(b)(29)(B)~~632(b)(30)(B).

(D) All vessels shall observe a five (5) nautical mile per hour speed limit within 1,000 feet seaward of the mean lower low tide line of any shoreline of the islets defined in subsection ~~632(b)(29)(B)~~632(b)(30)(B).

(E) In an area bounded by the mean high tide line and a distance of one nautical mile seaward of the mean lower low tide line of any of the four islets comprising the North Farallon Islands, the following restrictions apply:

1. All commercial diving vessels operating in the defined area shall have their vessel engine exhaust system terminate either through a muffler for dry exhaust systems, or below the vessel waterline for wet exhaust systems.

2. All commercial diving vessels equipped with an open, deck-mounted air compressor system, while operating in the defined area, shall have their air compressor's engine exhaust system terminate below the vessel waterline.

...

33° 27.74' N. lat. 117° 43.18' W. long.;
33° 27.47' N. lat. 117° 42.28' W. long.; and
33° 27.63' N. lat. 117° 42.45' W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally below the mean lower low-water mark: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.

2. Only spiny lobster may be taken commercially.

(C) Except as expressly provided in this section, it is unlawful to enter the intertidal zone in the Dana Point State Marine Conservation Area for the purpose of taking or possessing, or to take or possess, any species of fish, plant, or invertebrate, or part thereof; to use or have in possession any contrivance designed to be used for catching fish; to disturb any native plant, fish, wildlife, aquatic organism; or to take or disturb any natural geological feature. This subdivision does not prohibit persons from entering the intertidal zone for the purpose of entertainment, recreation, and education while having a minimum impact on the intertidal environment and the living organisms therein. For this purpose, minimum impact includes foot traffic; general observation of organisms in their environment with immediate replacement of any unattached organisms to their natural location after temporary lifting for examination; and photography. Minimum impact does not include removal of attached organisms from their environment; gathering of fishing bait; littering, collecting rocks and shells; or turning rocks or other acts destructive to the environment.

(D) The department director may appoint a director of the Dana Point State Marine Conservation Area.

(E) The director of the Dana Point State Marine Conservation Area may issue a special collecting permit authorizing any person to enter the conservation area for the purposes of scientific collecting under the conditions of a scientific collector's permit issued by the department.

(F) Notwithstanding subsections ~~632(b)(89)(B) or 632(b)(89)(C)~~ 632(b)(107)(B) or 632(b)(107)(C), the director of the Dana Point State Marine Conservation Area, or any person who has a scientific collector's permit from the department and to whom the director of the Dana Point State Marine Conservation Area has issued a special collecting permit may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department.

(G) This section does not prohibit the entry of state and local law enforcement officers, fire suppression agencies, and employees of the department in the performance of their official duties. This section does not prohibit or restrict navigation in the Dana Point State Marine Conservation Area pursuant to federal law.

...

Subsequent subsections are renumbered beginning with (108).